

Remarks/Arguments:

Claims 1-8, 10-11, 13-16, 19, 22, 23 and 26-31 are presently pending. All pending claims stand rejected. Applicant herein adds new claim 32. Support for the new claim can be found throughout the application as originally filed. For example, see page 24, line 23 to page 26, line 2. No new matter is added. Reconsideration is respectfully requested in view of the following remarks.

Examiner Interview

Applicant appreciates the courtesies extended by the Examiner during an interview held on April 28, 2009. During the interview, the features of claim 1 were discussed. The features of the Witkowski reference (U.S. Pat. No. 7,257,426) were also discussed. As articulated during the interview, Applicant contends that Witkowski fails to disclose the drive-through menu board adapted to physically hold a plurality of products. The Examiner acknowledged this argument and indicated that he would reconsider the rejection once we reduced our arguments to writing. Accordingly, our arguments are set forth below. No agreement was reached on the allowability of the claims.

Claim Rejections Under 35 U.S.C. § 102

Section 3 of the Office Action recites that "[c]laims 1-8, 10, 11, 13-16, 19, 22, 23, and 26-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Witkowski (US 7,257,426)...." Applicant respectfully traverses this rejection.

Applicant respectfully submits that Witkowski fails to disclose each feature of independent claim 1. Claim 1 is directed to a network system for effectuating data communication between a vehicle and a data processing resource including:

a store display adapted to physically hold a plurality of products for sale to and physically accessible by a customer, said store display equipped with a communication interface device having...

a communication interface ... the communication interface communicating the vehicle related information from said in-vehicle monitoring unit via the in-vehicle device to said data processing resource for processing by the data processing resource, wherein the data processing resource communicates selection information to the store display for selecting at least one of the products for

sale physically held by the store display responsive to the vehicle related information.

This means that the store display physically holds a plurality of products. The plurality of products held by the store display are physically accessible by the customer. The store display is equipped with a communication interface device having a communication interface. The communication interface communicates vehicle related information to a data processing resource. The data processing resource processes this vehicle related information and then communicates selection information to the store display for selecting at least one of the products physically held by the store display for sale.

Section 4 of the Office Action recites that "Witkowski's drive-thru board 46 are retail stores ... [and] Witkowski's drive-thru store includes capabilities to physically hold products." Applicant respectfully disagrees. Witkowski is directed to wireless communications systems and methods. Witkowski discloses a drive-through menu board 46 containing a wireless RF transceiver 10a and a secure transaction receiver 48. See Witkowski at column 9, lines 60-65, and Fig. 4. Witkowski further discloses that drive-through menu board 46 "could be modified to enable drive-through banking transactions, drive-through prescription ordering or a wide variety of other retail transactions made from within a vehicle...." See Witkowski at column 10, lines 2-25. Witkowski, however, fails to disclose that drive-through menu board 46 is capable of physically holding products for these retail transactions. Applicant respectfully submits that the drive-through menu board 46 disclosed by Witkowski merely provides a listing of products that may be ordered from within a vehicle, and that the ordered products are physically held in another location (i.e. within the store). Applicant respectfully contends that the broadest reasonable interpretation of the phrase "physically held" would not encompass the mere listing of products. Accordingly, Witkowski fails to disclose "a store display adapted to physically hold a plurality of products for sale to and physically accessible by a customer, said store display equipped with a communication interface device," as recited in independent claim 1. Therefore, Applicant respectfully requests that the rejection of claim 1 be withdrawn.

Applicant respectfully submits that claim 29 recites additional features not disclosed by Witkowski. Claim 29 depends from independent claim 1 and includes the additional feature of "the store display includ[ing] a display rack for physically holding the products for sale." As discussed above, Witkowski fails to disclose a store display having the capability to physically hold products. Thus, Applicant submits that Witkowski necessarily fails to disclose "the store

display includ[ing] a display rack for physically holding the products for sale," as recited in claim 29.

Independent claims 13 and 19, while not identical to claim 1, include features similar to the allowable features discussed above with respect to claim 1. Therefore, Applicant respectfully requests that the rejection of claims 13 and 19 be withdrawn.

Claims 2-8, 10, 11, 14-16, 22, 23, and 26-31 each depend, either directly or indirectly, from one of claims 1, 13, and 19. Accordingly, claims 2-8, 10, 11, 14-16, 22, 23, and 26-31 include at least the allowable features discussed above with respect to claims 1, 13, and 19. Therefore, Applicant respectfully requests that the rejection of claims 2-8, 10, 11, 14-16, 22, 23, and 26-31 be withdrawn.

New Claim 32

New claim 32 depends from independent claim 1. Accordingly, new claim 32 includes the allowable features discussed above with respect to independent claim 1 and is thus allowable for at least this reason.

Applicant respectfully submits that claim 32 recites additional features not disclosed by Witkowski, namely: "the store display is within the store and ... responsive to the vehicle related information being received from the in-vehicle monitoring unit at the data processing resource, the data processing resource communicates product selection information to the store display for selecting by the user from within the store at least one of the products for sale physically held by store display." Witkowski discloses that drive-through menu board 46 enables a variety of retail transactions made from within a vehicle without the need for the driver to leave the vehicle. See Witkowski at column 10, lines 16-21. Witkowski fails to disclose drive-through menu board 46 enabling a customer to effect retail transactions from within a store. Accordingly, Witkowski fails to disclose "the store display is within the store and ... responsive to the vehicle related information being received from the in-vehicle monitoring unit at the data processing resource, the data processing resource communicates product selection information to the store display for selecting by the user from within the store at least one of the products for sale physically held by store display," as recited by claim 32. Therefore, Applicant submits that new claim 32 is allowable over Witkowski for this additional reason.

Conclusion

In view of the above remarks, Applicant submits that the application is in condition for allowance, which action is respectfully requested.

Respectfully submitted,



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The Director is hereby authorized to charge or credit Deposit Account No. **18-0350** for any additional fees, or any underpayment or credit for overpayment in connection herewith.

I hereby certify that this correspondence is being electronically transmitted to: Commissioner for Patents on: May 7, 2009



Edna Schmittinger